IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

:JUDGMENT:

Nand Kishore Pandia Vs. The State & ors.

D. B. Civil Special Appeal (W) No.1157/2003 under Section 18 of the Rajasthan High Court Ordinance, 1949 against the order dated 5.7.2002 passed in S. B. Civil Writ Petition No.4998/2000.

Date of Judgment ::: January 11, 2007

PRESENT

HON'BLE JUSTICE MRS. GYAN SUDHA MISRA
HON'BLE JUSTICE MR. K. C. SHARMA

Mr. Sunil Kumar Yadav, for the appellant.

By the Court:

This appeal has been preferred against the order of the learned Single Judge as also the order of the Members, Rajasthan Civil Services Appellate Tribunal, who have concurrently upheld the order of compulsory retirement of the appellant.

The Tribunal, in its order, has discussed the entire background and service record of the appellant, which discloses that the appellant, who was working as Assistant Forest Guard, had been entangled into several irregularities indicating that he had illegally indulged in cutting the trees of the Forest Department, due to

which he had been punished by stoppage of two annual grade increments. Thereafter, in the year 1997 also, the appellant was alleged to have shown 50 qts. of grass less on account of which a punishment of censure was imposed on the appellant. Further, he had also remained absent for 138 days without information. Therefore, the appellant was held to be negligent in discharge of his official duties as a result of which he was compulsorily retired along with 45 other employees who had attained the age of 50 years and had already served for more than 15 years.

Assailing the order of the learned Single Judge as also the Tribunal, it was submitted by the counsel for the appellant that the acts of irregularities alleged against the appellant were of the period prior to five years of the date of his compulsory retirement after which he had also been promoted and, therefore, it was not a fit case for passing the order of his compulsory retirement. It was also submitted that other persons, who had been compulsorily retired, were later on ordered to be reinstated by the Tribunal itself.

On consideration of the aforesaid submissions, we are of the view that while passing the order of

compulsory retirement, an over-all view of the past record of the employee is taken into consideration and it is well settled that while considering the order of compulsory retirement, the courts are not required to delve deep into the service record and secretarial files, although prima facie material may be examined by the court. The Tribunal as also the learned single Judge have already undertaken that exercise and thereafter have upheld the order of compulsory retirement in which we find no infirmity. In so far as the reinstatement of other compulsory retired persons are concerned, there is no material before this court so as to make a comparative assessment of the appellant's service record with that of the others who have been reinstated and, therefore, we cannot enter into that aspect of the matter.

The appeal, therefore, is not fit to be entertained and hence it stands dismissed at the admission stage itself.

[**K.C. Sharma**],**J.** [**Gyan Sudha Misra**],**J.**

/skm/